

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2170**

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**Introduced by Assembly Member Bonnie Lowenthal**

February 18, 2010

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An act to add Section 1374.205 to the Health and Safety Code, and to add Section 10199.485 to the Insurance Code, relating to health care coverage.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2170, as amended, Bonnie Lowenthal. Health care coverage: prescriptions: formularies.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act's requirements a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a group health care service plan or health insurer, with regard to a group contract, except as specified, from changing the premium rates or applicable copayments or coinsurances or deductibles during certain time periods.

This bill would prohibit a health care service plan or a health insurer covering prescription drug benefits and using a formulary from increasing the applicable copayments or deductibles or coinsurances for prescription drugs for the length of the contract or policy, ~~including, but not limited to, during any open enrollment period.~~

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1374.205 is added to the Health and  
2 Safety Code, to read:

3 1374.205. (a) In addition to the prohibitions in subdivision (a)  
4 of Section 1374.20 applicable to group health care service plan  
5 contracts, and notwithstanding subdivision (b) of Section 1374.20,  
6 no health care service plan, with regard to an individual or group  
7 health care service plan contract that covers prescription drug  
8 benefits and uses a formulary, shall increase the applicable  
9 copayments or deductibles for prescription drugs for the length of  
10 the contract, ~~including, but not limited to, during any open~~  
11 ~~enrollment period.~~

12 (b) This section shall not apply to health care service plan  
13 contracts issued through a publicly funded state health care  
14 coverage program, including, but not limited to, the Medi-Cal  
15 program and the Healthy Families Program, or to Medicare  
16 supplement contracts.

17 SEC. 2. Section 10199.485 is added to the Insurance Code, to  
18 read:

19 10199.485. (a) In addition to the prohibitions in subdivision  
20 (a) of Section 10199.48 applicable to group contracts, and  
21 notwithstanding subdivision (b) of Section 10199.48, no health  
22 insurer, with regard to an individual policy or group contract that  
23 covers prescription drug benefits and uses a formulary shall  
24 increase the applicable copayments or coinsurances or deductibles  
25 for prescription drugs for the length of the policy or contract;  
26 ~~including, but not limited to, during any open enrollment period.~~

1 (b) This section shall not apply to an individual policy or group  
2 contract issued through a publicly funded state health care coverage  
3 program, including, but not limited to, the Medi-Cal program and  
4 the Healthy Families Program, or to Medicare supplement  
5 contracts.

6 SEC. 3. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.